

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MANUEL PHILLIP RIOS,

Plaintiff,

vs.

No. CV 19-01097 RB/KRS

CURRY COUNTY DETENTION CENTER,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se handwritten letter filed by Manuel Phillip Rios. (Doc. 1). The Court determines that the pro se filing is deficient because it is not in proper form or signed under penalty of perjury by Plaintiff, and Plaintiff has not paid the \$400 filing fee or filed an Application to Proceed in the District Court Without Prepaying Fees and Costs.

Plaintiff's filing consists of a two-page letter stating that it is sworn under oath, but with no evidence that Mr. Rios was under oath at the time the writing was signed. The letter alleges “[t]he living condition are extremely terrible and hazardous.” (Doc. 1 at 1). Plaintiff's filing appears to assert prison conditions civil rights claims under 42 U.S.C. § 1983. (Doc. 1 at 1). A civil rights complaint under 42 U.S.C. § 1983 is the exclusive vehicle for vindication of substantive rights under the Constitution. *See Baker v. McCollan*, 443 U.S. 137, 144 n. 3 (1979); *Albright v. Oliver*, 510 U.S. 266, 271 (1994) (claims against state actors must be brought under 42 U.S.C. § 1983). The filing is not in proper form to assert civil rights claims and is not signed under penalty of perjury as required by Fed. R. Civ. P. 11(a).

In addition, under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required to collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has not paid the \$400.00 filing fee or submitted an application to proceed under § 1915.

Plaintiff must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within thirty (30) days of entry of this Order. Plaintiff must include the civil action number, CV 19-01097 RB/KRS on all papers he files in this proceeding. If Plaintiff fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that, within thirty (30) days of entry of this Order, Plaintiff Manuel Phillip Rios cure the deficiencies by (1) paying the \$400 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs and (2) filing a prisoner civil rights complaint in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form prisoner civil rights complaint under 42 U.S.C. § 1983, with instructions.



UNITED STATES MAGISTRATE JUDGE